

116TH CONGRESS
2D SESSION

H. R. _____

To direct the Secretary of Homeland Security to design and establish a pilot program to facilitate voluntary information sharing between State, Local, and Regional Fusion Centers and certain technology companies related to threats of imminent violence, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MCCAUL introduced the following bill; which was referred to the
Committee on _____

A BILL

To direct the Secretary of Homeland Security to design and establish a pilot program to facilitate voluntary information sharing between State, Local, and Regional Fusion Centers and certain technology companies related to threats of imminent violence, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This bill can be referred to as the “Protecting Amer-
5 ica through Information Sharing Act”.

1 **SEC. 2. ESTABLISHMENT OF PILOT PROGRAM TO RESPOND**
2 **TO THREATS OF IMMINENT VIOLENCE.**

3 (a) ESTABLISHMENT OF PILOT PROGRAM.—Not
4 later than one year after enactment of this Act, the Sec-
5 retary of Homeland Security, in consultation with the pro-
6 gram manager of the information sharing environment de-
7 fined in section 1016(a)(3) of the Intelligence Reform and
8 Terrorism Prevention Act of 2004, the Attorney General,
9 the Privacy Officer of the Department of Homeland Secu-
10 rity, the Officer for Civil Rights and Civil Liberties of the
11 Department of Homeland Security, the Office of the Gen-
12 eral Counsel of the Department of Homeland Security,
13 and the Privacy and Civil Liberties Oversight Board, and
14 other relevant agency heads, shall establish a pilot pro-
15 gram to facilitate the voluntary sharing of information by
16 social networking website companies regarding threats of
17 imminent violence (hereinafter in this Act referred to as
18 “threats”) posted on such websites.

19 (b) PRINCIPLES.—Prior to establishing the pilot pro-
20 gram, the Secretary shall consult with the entities de-
21 scribed in subsection (a), social networking website compa-
22 nies, and civil liberty and privacy groups within 90 days
23 of enactments to establish a policy framework to guide the
24 activities of the pilot program. The framework shall in-
25 clude the following:

1 (1) The sharing of information between social
2 networking website companies and law enforcement
3 shall be consistent with federally-recognized informa-
4 tion-sharing practices and utilize the Nationwide
5 Suspicious Activity Reporting (SAR) Initiative
6 (NSI).

7 (2) Nothing in this pilot program shall require
8 social networking website companies to violate the
9 website's internal terms and conditions or to disclose
10 any information to a participant in the pilot pro-
11 gram, beyond any existing legal requirements as of
12 the date of enactment of this Act.

13 (3) The pilot program shall establish a basis for
14 what is determined to be a threat, and what the cri-
15 teria are for determining its credibility.

16 (4) There is a policy framework established to
17 protect the disclosure of threat information.

18 (5) Any framework established for sharing
19 threat information shall include the consultation of
20 civil liberty and privacy groups on a biannual basis
21 to discuss the development of a framework pro-
22 tecting civil liberties and privacy, and the enforce-
23 ment of policies guiding the pilot program in pro-
24 tecting civil liberties and privacy consistent with ex-
25 isting law.

1 (6) The pilot program is intended to focus on
2 threats in the United States, while permitting the
3 data collection and dissemination of all data whether
4 international or domestic in origin.

5 (7) The pilot program shall not infringe on civil
6 liberties or privacy requirements consistent with ex-
7 isting law.

8 (c) STRUCTURE.—In establishing this pilot program,
9 the Secretary shall designate a Federal or SLTT law en-
10 forcement agency, or regional fusion center under section
11 210A of the Homeland Security Act of 2002, to serve as
12 a centralized clearinghouse between social networking
13 website companies and appropriate law enforcement.

14 (d) RESPONSIBILITY OF CLEARINGHOUSE.—This
15 clearinghouse shall be responsible for—

16 (1) receiving threats from social networking
17 website companies and law enforcement regarding
18 threats of imminent violence found on social media
19 whether international or domestic;

20 (2) analyzing such threats to turn such threats
21 into actionable intelligence or distribute such threats
22 to relevant Federal or SLTT law enforcement agen-
23 cies for further analysis whether international or do-
24 mestic; and

1 (3) disseminating such threats and actionable
2 intelligence gathered from social networking website
3 companies and law enforcement to appropriate Fed-
4 eral and SLTT law enforcement agencies.

5 (e) CRITERIA FOR CLEARINGHOUSE .—Fusion Cen-
6 ters shall apply for consideration as the centralized clear-
7 inghouse. In choosing the centralized clearinghouse, the
8 Secretary shall consider—

9 (1) the entities' capacity to work in partnership
10 with social networking website companies and fed-
11 eral, state and local law enforcement entities;

12 (2) the entities' capacity to disseminate threat
13 information in a timely manner to the appropriate
14 Federal or SLTT law enforcement agency;

15 (3) similar existing programs that successfully
16 leverage relationships with social networking website
17 companies and Federal and SLTT law enforcement
18 agencies to engage in information sharing related to
19 threats of imminent violence;

20 (4) the capacity of the clearinghouse to utilize
21 existing information sharing networks; and

22 (5) usage of existing, accredited information
23 sharing networks such as the Homeland Security In-
24 formation Network.

1 (f) PARTICIPATION.—In establishing this pilot pro-
2 gram, the Secretary shall conduct outreach to fusion cen-
3 ters, other law enforcement agencies and social networking
4 website companies to educate them on the pilot program,
5 and invite appropriate entities to participate in this vol-
6 untary program.

7 **SEC. 3. OVERTIME PAY.**

8 Each member of the pilot program (other than those
9 from participating social media networking website com-
10 panies) (and each individual from any SLTT law enforce-
11 ment agency working on the pilot program) shall remain
12 as an employee of that member's or individual's respective
13 agency for all purposes (including the purpose of perform-
14 ance review), and service with the pilot program shall be
15 without interruption or loss of civil service privilege or sta-
16 tus and on a nonreimbursable basis, except if appropriate
17 to reimburse SLTT law enforcement agencies for overtime
18 costs for an individual appointed to work with the resource
19 team. Additionally, reimbursement of travel and per diem
20 expenses will occur for SLTT law enforcement officers for
21 purposes of activities engaged in only by reason of partici-
22 pation in the pilot program.

23 **SEC. 4. LIMITATION ON LIABILITY.**

24 (a) IN GENERAL.—No cause of action shall lie in any
25 court—

1 (1) against a social media website company or
2 other private entity for information provided in good
3 faith regarding threats of imminent violence in the
4 course of participation in the pilot program estab-
5 lished in section 2(a);

6 (2) against a social media website company or
7 other private entity for information withheld in good
8 faith regarding threats of imminent violence to the
9 pilot program established in section 2(a);

10 (3) against the clearinghouse established in sec-
11 tion 2(c) or members of law enforcement for acting
12 on a threat received via the pilot program estab-
13 lished in section 2(a); and

14 (4) against the clearinghouse established in sec-
15 tion 2(c) or members of law enforcement for not act-
16 ing on a threat received via the pilot program estab-
17 lished in section 2(a).

18 (b) INTENTIONAL, RECKLESS, OR OTHER MIS-
19 CONDUCT.—Subsection(a) does not apply to a claim if the
20 social networking website company, or a director, officer,
21 employee, parent, contractor, or agent of that social net-
22 working website company—

23 (1) engaged in intentional misconduct; or

24 (2) acted, or failed to act—

25 (A) with actual malice;

1 (B) with reckless disregard to a substantial
2 risk of causing injury without legal justification;
3 or

4 (C) for a purpose unrelated to the per-
5 formance of any responsibility or function de-
6 scribed in paragraph (3).

7 (c) EXCEPTION.—The limitation of liability as de-
8 scribed in subsection (a)(1) and (a)(2) only applies should
9 social networking website companies choose to participate
10 in the pilot program as described in section 2(a).

11 **SEC. 5. RULE OF CONSTRUCTION.**

12 (a) SOCIAL NETWORKING WEBSITE COMPANY PAR-
13 TICIPATION.—Nothing in this Act may be construed to re-
14 quire any social networking website, to participate in the
15 pilot program or to disclose any information to a partici-
16 pant in the pilot program. No Federal or State liability,
17 or any other actionable adverse consequence, may be im-
18 posed on such website company based on its decision not
19 to do so.

20 (b) ACTING ON A REPORTED THREAT.—Nothing in
21 this Act shall be construed to require any Federal or
22 SLTT law enforcement agency to open an investigation
23 or act in accordance with a threat received from the clear-
24 inghouse established in section 2(c). Any government ac-
25 tion with respect to information received from the clear-

1 inghouse may only be taken consistent with existing au-
2 thorities and obligations.

3 (c) CONSISTENT WITH EXISTING LAW.—Information
4 voluntarily shared by social networking website companies
5 through the pilot program established in this Act shall re-
6 main in accordance with section 2702(c) of title 18,
7 United States Code.

8 (d) PROTECTION OF CIVIL LIBERTIES.—The pilot
9 program shall adhere to constitutional rights and existing
10 laws on civil liberties and privacy.

11 (e) SUBSCRIBER DATA.—Information shared through
12 the pilot program shall not include subscriber data as de-
13 scribed in the Electronic Communications Privacy Act of
14 1986.

15 **SEC. 6. REPORT.**

16 No later than 2 years after enactment, the Secretary,
17 in consultation with entities participating in the pilot pro-
18 gram, shall report to Congress on the pilot program estab-
19 lished in section 2 that assesses—

20 (1) The capability of social networking website
21 companies to identify public posts indicating threats
22 of imminent violence, and their capacity to share
23 such threats with the clearinghouse established as
24 part of the pilot program.

1 (2) The total number of notifications shared be-
2 tween participating social networking website compa-
3 nies and the clearinghouse of the pilot program re-
4 garding threats of imminent violence

5 (3) The time it took participating social net-
6 working website companies to flag threats of immi-
7 nent violence posted on their platforms to the clear-
8 inghouse.

9 (4) The time it took the clearinghouse to con-
10 vert threats received from social networking website
11 companies into actionable intelligence.

12 (5) The time it took the clearinghouse to dis-
13 seminate threats from social networking website
14 companies to appropriate law enforcement entities.

15 (6) To the extent practicable, the number of
16 times a threat passing through the clearinghouse led
17 to an active law enforcement response.

18 **SEC. 7. DEFINITIONS.**

19 In this Act:

20 (1) SOCIAL NETWORKING WEBSITE COMPANY.—
21 The term “social networking website company”
22 means a company that maintains an Internet
23 website—

24 (A) that allows users, through the creation
25 of web pages or profiles or by other means, to

1 provide information about themselves or others
2 that is available to the public or to other users;
3 or

4 (B) that offers a mechanism for commu-
5 nication with other users, including any con-
6 tractors or agents used by the website company
7 to act on behalf of the website company in car-
8 rying out the purposes of this Act.

9 (2) THREAT OF IMMINENT VIOLENCE.—The
10 term “threat of imminent violence” means any inci-
11 dent in which there is a reasonable indication that
12 an individual or group suggest an intent to immi-
13 nently inflict injury or death to oneself or others, or
14 terrorism as defined by section 2(18) of the Home-
15 land Security Act of 2002 (6 U.S.C. 101(18)) or an
16 attack that otherwise lacks a clearly discernible po-
17 litical or ideological motivation.

18 (3) SLTT LAW ENFORCEMENT AGENCY.—The
19 term “SLTT law enforcement agency” means a
20 State, local, Tribal, or territorial law enforcement
21 agency.

22 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

23 There is authorized to be appropriated \$3,000,000
24 for each of fiscal years 2020 through 2021 to the Sec-
25 retary of Homeland Security to carry out subsections (a),

1 (e), and (f) of section 2 and to pay overtime; any amounts
2 remaining at the conclusion of fiscal year 2021 shall be
3 transferred to the centralized clearinghouse to maintain
4 the pilot program.